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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/685,610	10/11/2000	Betsy Johnson	53394.000444	5256

7590 07/12/2002

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EXAMINER

REICHLE, KARIN M

ART UNIT	PAPER NUMBER
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3761

DATE MAILED: 07/12/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/685616

Applicant(s)

Johnson

Examiner

Reichle

Group Art Unit

376

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- ☒ Responsive to communication(s) filed on 10-11-00
- ☐ This action is FINAL.
- ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1-10 is/are pending in the application.
- Of the above claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 1-10 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☒ The drawing(s) filed on 10-11-00 is/are objected to by the Examiner.
- ☒ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
 - ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been received.
 - ☐ received in Application No. (Series Code/Serial Number) _____
 - ☐ received in this national stage application from the International Bureau (PCT Rule 1.7.2(a)).

*Certified copies not received: _____

Attachment(s)

- ☒ Information Disclosure Statement(s), PTO-1449, Paper No(s) 3
- ☐ Interview Summary, PTO-413
- ☒ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other _____

Office Action Summary

The undated change to the declaration is presumed to have been present at the time of signing.

1. The abstract of the disclosure is objected to because language which can be inferred, i.e. "The present invention... to ", "The present invention provides", should be avoided. Purported merits and comparison to prior art, i.e. "which is... techniques" should also be avoided. Correction is required. See MPEP § 608.01(b).

2. The disclosure is objected to because of the following informalities: on page 1, line 5, "priority" should be -- benefit --. 2) On page 1, line 14, "are" should be -- is --.

Appropriate correction is required.

3. The use of the trademark Lycra TM (page 11) has been noted in this application. It should be capitalized wherever it appears and be accompanied by the generic terminology.

Although the use of trademarks is permissible in patent applications, the proprietary nature of the marks should be respected and every effort made to prevent their use in any manner which might adversely affect their validity as trademarks.

Trademark should be in all capital letters or include the trademark symbol.

4. The drawings are objected to because in Figure 2 the line from 28 should be dashed to denote underlying structure. Also, numerals 44 & 46 denote the same structure and the structure of tabs 31 and 36 are denoted inconsistently from one another. A proposed drawing correction or corrected drawings are required in reply to

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the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

5. The prior art cited in the specification has been noted but will not appear on the front of a patent, if any, unless cited on a PTO-892 or 1449 accompanying this action, since such citations are not in compliance with 37 CFR 1.56, 1.97 and 1.98.

6. All incorporation by reference should be reviewed to ensure their propriety, i.e. no incorporation by reference of essential material by reference to foreign patents or patent applications or by reference to U.S. patents or patent applications which themselves incorporate by reference.

7. Claims 1-7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Are the adhesive in step (c) and that in step (a) one and the same?

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 1-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bunnelle '864 in view of Heindel et al.

See column 1, lines 12-13, column 3, lines 43-57, column 8, line 55 - column 11, line 20, column 13, lines 64-66, column 14, lines 21-24. The Bunnelle et al reference

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teaches providing components of an absorbent article and attaching those component portions using a slow crystallizing hot melt adhesive using one of the adhesives as disclosed by applicant, at a temperature disclosed by applicant, in an amount disclosed by applicant, by a process disclosed by applicant and the components have the same composition as disclosed by applicant. Applicant claims 1) one of the components being a mechanical fastener and one of the components being the remainder of absorbent article and 2) a specific bond static shear strength. With regard to 1), see, however, Heindel et al, Figures 1, 8 and column 4, line 15 – column 7, line 21, column 7, lines 56 et seq, column 11, lines 63-64, i.e. a component of a conventional disposable article attached by hot melt is a mechanical fastener, which fastener may be a hook and loop fastener of 1 inch sq area and an ear tab including a laminate structure including elastomer and film substrates. To employ a mechanical fastener as taught by Heindel et al as ^a component of the Bunnelle article and attached by the adhesive and method thereof would be obvious to one of ordinary skill in the art in view of the recognition that such is a component of a disposable article attached to the remainder thereof by a hot melt adhesive and the desirability of Bunnelle to attach disposable article components by a hot melt adhesive. With regard to 2), since the prior art combination teaches attaching a mechanical fastener to the absorbent article in a target area with slow crystallizing hot melt adhesive under the same conditions as disclosed such would necessarily and inevitably result in a bond static shear strength as claimed. Also, see graphs of Bunnelle.

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10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The other prior art teaches various methods of adhesion.

11. The Examiner's regular work schedule is Monday-Thursday.

Any inquiry concerning this communication should be directed to Karin Reichle at telephone number (703) 308-2617.

K. Reichle:bhw

June 28, 2002

K. M. Reichle
Karin M. Reichle
Patent Examiner